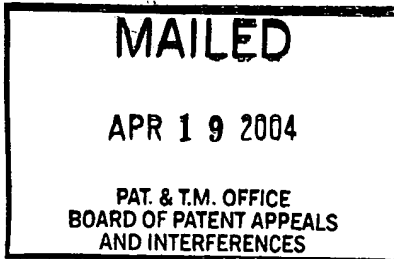


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte JAMES LARRY JONES

Application No. 09/862,910

ORDER RETURNING TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 6, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On page 3 of the Examiner's Answer mailed June 17, 2003 (Paper No. 13), the examiner listed the following reference under the heading "(9) Prior Art of Record";

2,362,911

LITTON

11-1944

It is noted that the Schade, Jr. reference cited on pages 4 and 5 of the Examiner's Answer under the heading "(10) Grounds of

Rejection" is not included as "Prior Art of Record." In accordance with § 1211 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 1, Feb. 2003), clarification is required regarding the pertinence of the Schade, Jr. reference. In addition, MPEP § 1208(A)(9) states:

(A) REQUIREMENTS FOR EXAMINER'S ANSWER.

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

(9) References of Record. A listing of the references of record relied on, and, in the case of nonpatent references, the relevant page or pages.

If appropriate, compliance with MPEP § 1208(A)(9) is required in listing the Schade, Jr. reference under the heading "Prior Art of Record" appearing in the Examiner's Answer mailed June 17, 2003 (Paper No. 13).

In addition, an amendment after final was filed by appellant on December 9, 2002 (Paper No. 9). The Advisory Action mailed December 30, 2002 (Paper No. 10) indicated that such amendment would be entered. Both the Appeal Brief filed March 31, 2003 (Paper No. 12) and the Examiner's Answer mailed June 17, 2003 (Paper No. 13) indicate that this amendment has

been entered. A review of the record indicates the amendment was not physically entered.


Accordingly, it is

ORDERED that the application is returned to the examiner:

1. for clarification under MPEP § 1211 regarding the pertinence of the Schade, Jr. reference listed on pages 4 and 5 of the Examiner's Answer mailed June 17, 2003 (Paper No. 13);
2. if appropriate, for compliance with MPEP § 1208(A)(9) by listing the Schade, Jr. reference in a Supplemental Examiner's Answer under the heading "References of Record";
3. for physical entry of the amendment filed December 9, 2002 (Paper No. 9);
4. for written notification to appellant regarding the action taken; and
5. for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


KIMBERLY JORDAN
Program and Resource Administrator
(703) 308-9797

Application 09/862,910

cc: Carlson, Gaskey & Olds, P.C.
400 West Maple Road
Suite 350
Birmingham, MI 48009

KJ/psb/ts
ra040447